

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

University of Northern Virginia, Inc.
100221 Balls Ford Rd.
Manassas, VA 20109

Case No. 3:09-cv-02225-DAK

Plaintiff,

v.

Judge David A. Katz

Tiffin University, Inc.
155 Miami St.
Tiffin, Ohio 44993

Defendant.

**DEFENDANT, TIFFIN UNIVERSITY, INC.'S ANSWER TO
PLAINTIFF, UNIVERSITY OF NORTHERN VIRGINIA, INC.'S COMPLAINT**

Defendant, Tiffin University, Inc. ("TU"), by and through undersigned counsel, provides the following answers to Plaintiff, University of Northern Virginia, Inc.'s ("UNVA") Complaint:

1. TU is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 1, 3, 5 and 15 of UNVA's Complaint and, therefore, denies those allegations.

2. TU admits the allegation contained in paragraph 2 of UNVA's Complaint in that TU is an educational institution and an Ohio not-for-profit corporation with its principal place of business located at 155 Miami Street, Tiffin, Ohio.

3. In response to the allegations contained in paragraphs 4, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30 and 31 of UNVA's Complaint, TU denies those allegations.

4. Allegations contained in paragraphs 14 and 25 of UNVA's Complaint do not require a response, but to the extent a response is deemed necessary, TU is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 14 and 25 of UNVA's Complaint and, therefore, denies those allegations.

5. TU specifically denies all allegations contained in UNVA's Complaint not specifically admitted herein.

AFFIRMATIVE DEFENSES

6. UNVA's Complaint fails to state a claim against TU upon which relief may be granted pursuant to the Rules of Civil Procedure.

7. UNVA's Complaint fails to join all necessary parties pursuant to the Rules of Civil Procedure.

8. UNVA's demand, if granted by this Court, will result in an unjust enrichment award for UNVA.

9. Damages suffered by UNVA, if any, are the result of unforeseeable intervening or superseding causes of action.

10. UNVA's claims are barred by res judicata (including judicial estoppel and collateral estoppel).

11. UNVA's claims are barred by UNVA's own failure to mitigate damages.

12. UNVA's own misconduct bars UNVA's claims.

13. UNVA lacks standing to bring its claims.

14. UNVA's claims are barred by the doctrine of waiver.

15. UNVA's claims are barred by the doctrine of estoppel.

16. UNVA's claims are barred by the doctrine of consent.

17. UNVA's claims are barred by the doctrine of acquiescence.

18. UNVA's claims are barred by the doctrine of laches.

19. UNVA had superior knowledge of the conditions ultimately causing any losses UNVA may have sustained.

20. Damages suffered by UNVA, if any, are the direct and approximate result of UNVA's own conduct, acts or omissions.

21. TU reserves the right to add additional defenses and to amend this pleading as the facts of this matter are discovered and as discovery proceeds.

WHEREFORE, having fully answered UNVA's Complaint, TU requests this Honorable Court order the following:

- A. Dismiss UNVA's Complaint with prejudice;
- B. Grant judgment in favor of TU as to costs, attorney fees, and other such relief as the Court deems appropriate and just.

Respectfully submitted,

/s/David J. Claus

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Counsel for TU Tiffin University, Inc.

PROOF OF SERVICE

This is to certify that a copy of the foregoing has been sent via the Court's electronic filing system on this 5th day of February 2010, to:

Richard R. Kerger, Esq.
Kerger & Hartman
33 South Michigan St., Suite 100
Toledo, Ohio 43604
Counsel for Plaintiff University of Northern Virginia, Inc.

And via regular U.S. mail to:

Shawn C. Whittaker, Esq.
Whittaker & Associates
1010 Rockville Pike, Suite 607
Rockville, MD 20852
Counsel for Plaintiff University of Northern Virginia, Inc.

/s/David J. Claus

David J. Claus (0070976)
Counsel for Tiffin University, Inc.